IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

RPFC.No. 102 of 2006()

MC.45/2005 of FAMILY COURT ERNAKULAM

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PETITIONER/RESPONDENT.

SUMI, D/O.ISSAC, KARAMOLEL HOUSE,
KALAMBOOR KARA, PATTIMATTOM, ERNAKULAM.

BY ADV. SRI.V.K.VEERAVUNNY
SRI.K.Y.TOMY

RESPONDENTS: PETITIONERS.

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1. BABU, S/O.KURIAKOSE, KAIPPANALIL HOUSE,
PANNIYAM KARA, KANNAMBRA VILLAGE, PALAKKAD DIST.

2. KERALA STATE REP. BY THE PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.ISSAC NINAN
SRI.RAJESHKUMAR FOR RI
PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 11/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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R.P.(F.C) No. 102 of 2006

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Dated this the 11th day of December, 2007

ORDER

In this revision filed under Section 19(4) of the Family Courts Act, the revision petitioner, who is the wife of the 1st respondent herein, challenges the order dated 28.2.06 passed by the Family Court, Ernakulam in M.C.No.45 of 2005 cancelling prospectively the ex parte order of maintenance passed in M.C.No.237 of 2001 directing the 1st respondent to pay monthly maintenance of Rs.500/- to the revision petitioner.

2. I heard both sides.

3. The facts unravelled by the pleadings and the oral evidence in the case is the following:

4. The marriage between the revision petitioner (Sumi) hailing from Pattimattam in Ernakulam district and the 1st respondent (Babu) hailing from Kannambra village in Palakkad district was on 3.7.2000. Right from the early days of marriage, the wife started quarelling with her husband and his parents. Her attitude became intolerable day by day. She was compelling her husband to get his family properties partitioned, so that the

same could be sold. She was not interested in living in a village. Since she was having no gold ornaments at the time of her marriage, her husband had given her new gold ornaments. He also spent huge amounts for her infertility and mental ailments. Some time in January 2001, she was taken to her house to continue the treatment. That was at her request. During that period also she and her relatives compelled Babu to demand his share in the family property and to sell the same. As he was not amenable they threatened him with dire consequence, fearing which Babu left for Bangalore in search of a job. It was taking advantage of his absence at Ernakulam that she filed M.C.No.237 of 2001. Besides other proceedings before the Family Court, the above M.C was filed suppressing the fact that she was having sufficient means to maintain herself as she was employed as an Advocate's Clerk. In the meanwhile, O.P (Divorce)No.975/2001 which was filed by Sumi for divorce was allowed. She started her career as an Advocate's clerk in the office of Advocate Sri.K.B.Sunny at Kolenchery prior to her marriage. She worked in that capacity till January 2000.

Thereafter she shifted her residence to Ernakulam and was working under several Advocates at Ernakulam. It was suppressing her income that she filed M.C.No.237 of 2001 seeking maintenance from her husband actuated by greed and with the designed object of harassing her husband. The said M.C. was initially allowed without proper notice to the husband. After Babu returned from Bangalore and on coming to know about the maintenance order, he had paid substantial amounts to his wife. Thereafter he filed M.C.No.45 of 2005 for cancelling the order passed in M.C.No.237 of 2001. On the side of Babu, apart from himself, he examined the President of the Advocate's Clerks Association at Ernakulam as PW2 and the Sheristhadar of the District Court, Ernakulam as PW3. Both of them deposed before the Court that Sumi was having a lucrative practice as an Advocate's Clerk.

5. Under the above circumstances, the Family court was fully justified in cancelling the order for maintenance. The order was passed after a careful evaluation of the oral and documentary evidence in the case. The trial Judge who had the

unique advantage of seeing the witnesses and assessing their credibility was inclined to accept the testimony of Babu and his witnesses in preference to the testimony of Sumi examined as RW1. In the absence of any infirmity in the appreciation of evidence by the Family Court, this Court sitting in revision will be loath to interfere with the said finding.

This revision, which is devoid of any merit, is accordingly dismissed.

V. RAMKUMAR, JUDGE

sj

/True Copy/

P.A To Judge